

## **Sunset Advisory Commission**

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Boards and Commission Registry Update: November 16, 2022

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### **BACKGROUND**

The Vermont State Archives and Records Administration (VSARA) is responsible for the State Boards and Commission Registry pursuant to [3 V.S.A. § 116a](#), which has the effective date of January 1, 2023. As required in the statute, the State Boards and Commission Registry will include: (1) the names of the members of each State board and commission, their term length and expiration, and their appointing authority; and (2) the dates of the initial creation of State boards and commissions created by State law and of any amendments to those laws for the purpose of the intended five-year expiration.

In each biennial session beginning in the year 2025, the Office of Legislative Counsel, in consultation with the Vermont State Archives and Records Administration and based on the registry's date tracking, shall prepare for the General Assembly's review a list of the State boards and commissions subject to expiration pursuant to 3 V.S.A. § 116a(b)(1).

### **CURRENT STATUS**

VSARA remains on target to meet the requirements set forth in 3 V.S.A. § 116a using existing technologies that have been made available to us. The information architecture (interpreting statutes into meaningful and useful “data” about state boards and commissions) is complete and the data architecture (the collection, storage, transfer, and lifecycle management of the “data,” mainly appointee data) is in development. We have been testing the public portal with the goal of online access to the Registry (v. 1.0) in December. We are anticipating changes in the technologies made available to us and we will be working with the incoming administration accordingly to expand and further develop the Registry and online portal in calendar year 2023.

### **GENERAL ANALYTICS**

The raw dataset, as of November 15, 2022, contains 259 state boards and commissions, 270 appointing authorities, and 2,426 members or “seats” of which 489 are ex officio members.

***Ex Officio Members***

The Department of Public Safety, primarily the Commissioner, has ex officio membership on more than 41 boards and commissions. A breakdown of Secretaries and Commissioners, or their designees, serving as ex officio members that was compiled last month revealed the following:

<b>Secretary/Commissioner</b>	<b>Total Boards/Commissions</b>
Commissioner of Public Safety	27
Secretary of Agriculture, Food and Markets	27
Commissioner of Health	22
Secretary of Commerce and Community Development	19
Secretary of Education	17
Secretary of Natural Resources	16
Secretary of Transportation	13
Secretary of Human Services	12
Commissioner of Labor	12
Commissioner of Mental Health	10
Commissioner of Forests, Parks and Recreation	10
Commissioner of Children and Families	9
Secretary of Administration	8
Governor	8
Commissioner of Fish and Wildlife	6
Commissioner of Buildings and General Services	6
Commissioner of Corrections	5
<i>All others</i>	<i>4 or less</i>

***Appointing Authorities***

The state official with the most appointees in the current raw dataset is the Governor with almost 1,09 appointees followed by the Speaker of the House, with 66 appointees, and the Senate Committee on Committees with 56 appointees. Appointing authorities are currently being categorized (running totals shown below):

<b>Appointing Authorities</b>	<b>Total as of November</b>
Domestic Non-Profit or Profit Corporation	88
Federal Government	3
Foreign Non-Profit or Profit Corporation	2
Local Government	8
State Government Legislative Branch	20
State Government: Executive Branch	79
State Government: Judicial Branch	3

Almost 20 appointing authorities are dissolved, inactive, merged, or terminated based on legislative acts and [corporate filings](#) of the Office of the Secretary of State.

Board or Commission	Member	Appointing Authority	Status
Artificial Intelligence Advisory Council	Regular	Vermont Academy of Science and Engineering, Inc.	Terminated
Census-based Funding Advisory Group	Regular	Vermont Coalition for Disability Rights, Inc.	Terminated
Emergency Service Provider Wellness Commission	Regular	Vermont Ambulance Association, Inc.	Terminated
Emergency Service Provider Wellness Commission	Regular	Vermont Ambulance Association, Inc.	Terminated
Emergency Service Provider Wellness Commission	Regular	Vermont Fire Chiefs Association	Inactive
Health Equity Advisory Commission	Regular	Windham County NAACP Inc.	Terminated
Home Energy Assistance Task Force	Regular	Vermont Coalition for Disability Rights, Inc.	Terminated
Law Enforcement Advisory Board	Regular	Vermont Constable's Association	Inactive
Marijuana for Symptom Relief Oversight Committee	Regular	Southern Vermont Wellness	Merged
Oversight Commission on Children, Youths, and Families	Regular	Northwest Vermont Foster and Adoptive Family Association, Inc.	Inactive
Property Parcel Data Advisory Board	Regular	Vermont Association of Planning and Development Agencies	Inactive
Public Transit Advisory Council	Regular	Vermont Association of Planning and Development Agencies	Inactive
SANE Board	Ex Officio	Vermont State Nurses Association	Revoked
State Natural Resources Conservation Council	Ex Officio	Forests and Parks, Board of	Dissolved
State Natural Resources Conservation Council	Ex Officio	State Planning Office	Dissolved
Vermont Council on Domestic Violence	Regular	Vermont Supervised Visitation Services, LLC	Dissolved
Vermont Downtown Development Board	Regular	Vermont Association of Planning and Development Agencies	Inactive

Board or Commission	Member	Appointing Authority	Status
Vermont Downtown Development Board	Alternative	Vermont Association of Planning and Development Agencies	Inactive
Vermont Prescription Drug Advisory Council	Regular	Hospice and Palliative Care Council of Vermont	Dissolved

The Vermont State Archives and Records Administration is continuously reviewing the accuracy of the dataset and monitoring the work of the Commission. At this time, we can attest, with confidence, that the Registry (v.1) will include state boards and commissions codified in statute or included in final inventory provided to us pursuant to 3 V.S.A. § 268 that also meet the definition of “state board and commission” in 3 V.S.A. § 116a.

State boards and commissions established through session law *only* are a challenge. This is also true for some created only through Executive Orders or those through Federal legislation without complimentary state legislation. In addition, there are also several examples in state law where a state agency, department or office can create advisory councils or committees as “deemed necessary” with no defined membership or terms, although some statutes do specify that an appointee’s term may not exceed those of the appointing authority. Examples include:

**3 V.S.A. § 3024 (Advisory councils or committees)**

*The Secretary, with the approval of the Governor, may create such advisory councils or committees as he or she deems necessary within the Agency, and appoint their members for terms not exceeding his or hers. (Added 1969, No. 272 (Adj. Sess.), § 4(g), eff. Jan. 10, 1971.)*

**3 V.S.A. § 3003 (Advisory capacity)**

*All boards and commissions which under this chapter are a part of or are attached to the Agency shall be advisory only, except as hereinafter provided, and the powers and duties of the boards and commissions, including administrative, policy making, and regulatory functions, shall vest in and be exercised by the Secretary of the Agency.*

**RECOMMENDATION**

In compiling the raw dataset for the Registry (v.1), irregularities between [3 V.S.A. § 116a](#) (State boards and commissions registry) and [3 V.S.A. § 268](#) (Boards and commissions; Sunset

Advisory Commission) became more evident. The stated intent of the General Assembly in 3 V.S.A. § 116a(b)(1), in comparison to the definition “State Board or Commission” in 3 V.S.A. § 116a(c), would benefit from discussion and possible legislative action to remedy, at least for the Registry (v.1).

**General Assembly Intent:**

*It is the intent of the General Assembly that, except for State boards and commissions required by interstate compact and except as otherwise provided by law, a State board or commission created by State law shall cease to exist after five years from the date of its initial creation, five years from the last date that the statutory or session law containing the State board or commission was amended, or on January 1, 2025, whichever date is latest.*

**Definition of State Board or Commission:**

*As used in this section, "State board or commission" means a professional or occupational licensing board or commission, advisory board or commission, appeals board, promotional board, interstate board, supervisory board or council, or any other similar entity that: (1) is created by State law, by federal law and contains State appointees, or by executive order; (2) is established as or is attached to an Executive Branch entity; (3) has statewide jurisdiction or carries out a State function; and (4) is not composed of members appointed exclusively by regional, county, or municipal entities.*

It is our recommendation that the Sunset Advisory Commission revise the definition of “State Board and Commission” to only those boards and commissions that have been created by state law and, therefore, subject to the “sunset” intended by 3 V.S.A. § 116a(b)(1).

**CONCLUSION**

As the source and owner of the State Boards and Commissions Registry, VSARA anticipates receiving questions that will require clarification from the General Assembly. We welcome continued collaboration with the General Assembly to use the preliminary registry dataset and the insights the data provide to help inform the proposed legislation for the 2023-2024 biennium. We are also pleased to announce that Jason Boss, an VSARA Administrative Services Coordinator who holds a master’s degree in public administration, will be serving at the State Boards and Commissions Registrar. In addition, we are recruiting for a technical services specialist to provide support to the Registry and other VSARA initiatives. This position has been vacant since January 2022 and our Data Analyst position has been vacant since August 2022.